IN THE HIGH COURT OF UTTARANCHAL AT NATINATAL

Court No.3

Criminal Misc. Application No. 250/2003

Om Tyagi ……Petitioner.

Vs.

State and another ……..Respondents.

Hon'ble Irshad Hussain, J.

This is a petitioner under section 482 of the Code of Criminal Procedure against the order of the taking cognizance by the learned Magistrate on 1-9-2001 by rejecting the final report submitted by the police after investigation and also judgment and order dated 22-8-2003 of the learned Sessions Judge whereby the revision preferred by the petitioner against the order of taking cognizance was dismissed.

2. Heard Sri Pawan Kumar learned counsel for the petitioner and Sri G.S.Sandhu lerned A.G.A. and perused the record.

3. From the perusal of the material on record it is evident that the learned Magistrate had considered the evidence collected during the investigation but did not find favour with the opinion that no case under section 39 of the Indian Electricity Act was prima facie made out against the petitioner and thereby t rejected the final repot and took cognizance under section 190 (1)(b) of the Code of Criminal Procedure. The revision preferred against the order was also dismissed as stated above in view of the fact that from the petitioner four core cable measuring about 12 meters and two core cable measuring about 25 meters and other accessories used for illegal connection were recovered and therefore prima facie there was sufficient evidence of commission of the offence punishable under section 39 of the Indian Electricity Act. The learned Sessions Judge has also considered the material on record as well as the legal aspect of the case and there being no impropriety in the judgment dismissed the revision preferred by the petitioner.

4. The order of taking cognizance is also based on proper and fair appraisal of the case diary and therefore there being no impropriety the petition lacks merit and is dismissed in limine.

Dated: 23-10-2003 **(Irshad Hussain,J.)**
ISB